

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	2242.05
COMPLAINT INVESTIGATOR:	Joe Bear
DATE OF COMPLAINT:	April 1, 2005
DATE OF REPORT:	April 29, 2005
REQUEST FOR RECONSIDERATION:	no
DATE OF CLOSURE:	May 25, 2005

COMPLAINT ISSUES:

Whether Gary Community School Corporation violated:

511 IAC 7-27-4(d) by failing to provide the Student academic instruction in Braille;

511 IAC 7-21-2(a) by failing to ensure that school personnel employed or contracted by the school to provide or supervise the provision of special education or related services to the student are appropriately licensed or certified to provide the services;

511 IAC 7-27-4(a)(3) by failing to convene the student's case conference committee (CCC) upon the request of the parent; and

511 IAC 7-27-7(a) by failing to implement the student's individualized education program (IEP) as written.

FINDINGS OF FACT:

1. The Student has been identified as having a visual impairment and has been determined eligible for special education and related services.
2. Since October 14, 2004, the Student has been receiving instruction in Braille from the Teacher-Facilitator of the Visually Impaired Program. The instruction was originally provided for 50 minutes in the afternoon, one time per week. Since April 5, 2005, the Teacher-Facilitator has been providing services for 90 minutes in the afternoon, three times per week. (The Student's IEP does not specify a certain amount of Braille instruction per week.)
3. The Teacher-Facilitator of the Visually Impaired Program has a State of Indiana life license to teach several subjects, including services to the visually impaired.
4. The teacher who normally provides basic instruction to the Student, and who has been on maternity leave since the week of March 4, 2005, has a State of Indiana license that was issued on December 22, 2004. The School has not provided documentation of a license prior to December 22, 2004. The teacher was issued an Indiana limited license for services to the visually impaired on November 6, 2003. That license expired on June 30, 2004.

5. The substitute teacher who has been providing basic instruction since the Student's classroom teacher went on maternity leave has a State of Indiana Substitute Teacher's Permit, which was issued on May 20, 2004, and expires on May 20, 2007.
6. A teacher providing after-school tutoring in Braille has a license issued in the State of New Hampshire, which includes an endorsement for services to the visually impaired and expires on June 30, 2006. (The tutoring is being provided as a compensatory service for a prior complaint.) The teacher has an active Indiana license that does not include an endorsement for services to the visually impaired (expires in December 2007).
7. On September 1, 2004, the Student's Parent wrote to the School to say that she had just started a new job that did not allow her to attend any CCC meetings. She stated that she was giving the Complainant and one other person "authority to do whatever is necessary" for the Student at CCC meetings during the 2004-2005 school year. The letter was notarized by a notary public of the same county.
8. Both the Complainant and the other individual mentioned in the Parent's letter to the School of September 1, 2004, participated in the CCC meeting on September 30, 2004, in the Parent's absence. The Parent later reviewed the IEP and signed that she agreed with it on October 11, 2004.
9. On October 26 and November 22, 2004, the Student's Parent again requested a CCC meeting in writing for the Student, naming several people she wished to attend. The School did not schedule a CCC meeting and provided no response to the requests.
10. On March 24, 2005, the Student's Parent and the Complainant both signed a letter to the School asking for a CCC meeting. The School finally set up a CCC meeting for April 26, 2005.
11. The School has not provided documentation to show that the IEP has been fully implemented. Services such as special transportation and the use of a one-on-one paraprofessional, as well as testing accommodations, have not been documented.

CONCLUSIONS:

1. Finding of Fact #2 indicates that the School has provided instruction in Braille to the Student since October 14, 2004. Therefore, a violation of 511 IAC 7-27-4(d) is not found.
2. Findings of Fact #3, #4, #5, and #6 indicate that the School has not ensured that all teachers serving the Student are appropriately licensed or certified. Specifically, the Student's classroom teacher was not licensed during the current school year until December 22, 2004, and a teacher providing tutoring has a license in visual impairment services from another state. Therefore, a violation of 511 IAC 7-21-2(a) is found.
3. Findings of Fact #7 and #8 indicate that, after the Parent requested to have the Complainant and another individual oversee services being provided to the Student, the CCC met with the Complainant and the other individual in September 2004. The Parent had given authority to the two individuals for the 2004-2005 school year. Findings of Fact #9 and #10 indicate that the School did not respond to the Parent's subsequent requests for a CCC meeting, and that over six months elapsed between the time of the October 2004 request for a CCC meeting and the eventual CCC meeting on April 26, 2005. Therefore, a violation of 511 IAC 7-27-4(a)(3) is found.

4. Finding of Fact #11 indicates that the School has not documented that the Student's IEP has been implemented as written. Therefore, a violation of 511 IAC 7-27-7(a) is found.

The Department of Education, Division of Exceptional Learners, requires corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

Gary Community School Corporation shall:

1. Provide an assurance statement that the School will ensure that all school personnel serving students with disabilities are properly licensed or certified at the beginning of each school year.

Documentation of compliance (consisting of the assurance statement) will be submitted to the Division by June 17, 2005.

2. Provide instruction to all CCC chairpersons and TOR's, by way of a written memorandum or an in-service training, that a meeting of the CCC must be convened within a reasonable amount of time upon the request of a parent. In cases where a parent has given authority to someone else to make decisions in his or her place, the designated individual will be considered to be filling the role of the parent.

Documentation of compliance (consisting of a memorandum with a list of people who received it or an in-service agenda and list of participants) shall be submitted to the Division by June 17, 2005.

3. Devise a system for tracking the implementation of accommodations in a student's IEP. Provide a one-week record of accommodations provided.

Documentation of compliance (consisting of a tracking system and a one-week record) shall be submitted to the Division by June 17, 2005.